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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,208	02/27/2004	Liang Chen	25322A	9069

22889 7590 10/06/2005

OWENS CORNING
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EXAMINER	
YAO, SAMCHUAN CUA	
ART UNIT	**PAPER NUMBER**
1733	

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/789,208	CHEN ET AL.	
	Examiner	Art Unit	
	Sam Chuan C. Yao	1733	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 September 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-31* is/are pending in the application.

4a) Of the above claim(s) *10-14 and 22-31* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9,15,17 and 20* is/are rejected.

7)☒ Claim(s) *16,18,19 and 21* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

Species A: all surfaces of a fibrous batt are coated with a foamable material (figures 6-7).

Species B: at least one of the surfaces of a fibrous batt is attached with *"a premanufactured sheet material"* (figure 8).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic both species.

2. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. During a telephone conversation with Ms Maria Gasaway on 09-21-05 a provisional election was made with traverse to prosecute the invention of Species A (claims 1-22). Affirmation of this election must be made by applicant in replying to this Office action. Claims 23-31 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Note: while Ms Gasaway indicated that, claims 1-22 are readable on elected species A, upon further reviewing of these claims, claims 10-14 and 22 are determined to be readable on species B, rather than species A. For this reason, these claims are withdrawn along with claims 23-31.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 6-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 is indefinite, because it is unclear what is intended by *"... one polymer selected from a group consisting of water soluble, water emulsifable and water*

dispersible polymers and prepolymers." (emphasis added). Does this limitation require the selected polymer to be a *"water soluble, water emulsifable and water dispersible polymer or prepolymer"* **or** *a polymer or prepolymer, which is either* water soluble, water emulsible **or** water dispersible. Alternatively, does this limitation reads on using any type of prepolymers (note: the limitation "selected from a group consisting of ... and prepolymers".).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 6 and 8-9 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Matthews et al (US 5,549,753).

8. Claims 1 and 6 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Matthews et al (US 2001/0033926 A1).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 2-5, 7, 15, 17, 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews et al (US 5,549,753) or Matthews (US 2001/0033926 A1) as applied to claim 1 in numbered paragraph 7 or 8 above.

With respect to claim 2, it is old in the art to apply a foamable material onto a fibrous web, where the foamable material is expanded after it is applied onto the fibrous web. Moreover, a preference on whether to apply a preformed foamed or a foamable material onto a fibrous material in a process of Matthews et al is taken to be well within the purview of choice in the art. Nore, but only the same desired result of providing a foamed coating to a fibrous material would have been achieved. For these reasons, this claim would have been obvious in the art.

With respect to claims 3-7, 15, and 17, absent any showing of unexpected benefits, the limitations in these claims are taken to be well within the purview of choice in the art. The limitations in these claims are taken to be a number of factors generally optimized, by routine experimentation, by those versed in the art in order to obtain the desired characteristics of a finished coated fibrous material. Moreover, the limitations in these claims are taken to be old in the art. For these reasons, these claims would have been obvious in the art.

11. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews et al (US 2001/0033926 A1) as applied to claim 1 in numbered paragraph 8 above, and further in view of Terry et al (US 4,990,370) and Matthews et al (US 5,5,49,753).

It would have been obvious in the art to coat all exposed surfaces of a batt in a process of Matthews et al '926, because: a) Terry et al, drawn to making a similar fibrous article as Matthews et al '926, teaches the desirability of not only coating major surfaces of a batt, but also minor surface of the batt; and b) it is also old in the art to fully coat a fibrous material with a foamable material as exemplified in the teachings of Matthews et al '753.

Allowable Subject Matter

12. Claims 16, 18-19 and 21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
The following is a statement of reasons for the indication of allowable subject matter: There is no suggestion in the art to provide different foamable coatings (i.e. coating amounts, polymers, & blow ratios) for 1st and 2nd surfaces of a fibrous batt.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (571) 272-1224. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sam Chuan C. Yao
Primary Examiner
Art Unit 1733

Scy
10-03-05